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PTO/SB/21 (09-04)

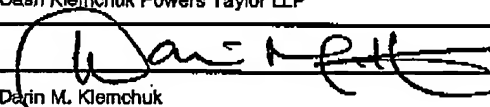
Approved for use through 07/31/2008. OMB 0651-0031

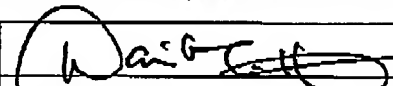
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/820,617	
	Filing Date	04/08/2004	
	First Named Inventor	KELLEY, Sam Jackson et al	
	Art Unit	3711	
	Examiner Name	CHIU, Raleigh W.	
Total Number of Pages in This Submission	6	Attorney Docket Number	0205.0001

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Cash Klemchuk Powers Taylor LLP		
Signature			
Printed name	Darin M. Klemchuk		
Date	December 14, 2005	Reg. No.	47,709

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Darin M. Klemchuk	Date	December 14, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	§	Examiner:	
KELLEY, Sam J. et al	§	CHIU, Raleigh W.	
Serial No.:	§	Art Unit:	3711
10/820,617	§		
Filing Date:	§	Office Action Mailing Date:	
04/08/2004	§	11/28/2005	
For:	§		
Ball Pitching Game and	§		
Method	§		

Mail Stop: Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Our docket number for this matter has changed to docket number 0205.0001.

Please update your records accordingly.

**RESPONSE TO OFFICE ACTION MAILED NOVEMBER 28, 2005**

The Examiner made a requirement for restriction under 35 U.S.C. 121 claiming Applicant's patent application includes two groups of claims resulting in two distinct inventions.

Applicant respectfully submits that the two groups of claims identified by the Examiner are not both independent and distinct, and that all claims 1 - 17 should be examined as one invention. Moreover, the Examiner has not shown, nor even alleged, that the groups of claims identified by the Examiner are "independent" as required by 37 CFR 142(a).

However, Applicant hereby makes an election to proceed with Group I, claims 1 - 10 of the application, with traverse pursuant to 37 CFR 1.143.

Amendments to the Claims are reflected on the listing of claims, which begins on page 2 of this paper.

Inventor - Keller et al  
Attorney Docket No. 0205.0001  
Page 1